

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

November 30, 2004

DIVISION ONE

B171075 People (Not for Publication)
v.
Valentine

The judgment is affirmed.

Suzukawa, J. (Assigned)

We concur: Spencer, P.J.
Mallano, J.

B169200 Hart (Not for Publication)
v.
American Express Financial Advisors, Inc., et al.

The judgment is affirmed.

Mallano, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B171543 Truck Insurance Exchange (Not for Publication)
v.
Fremont Indemnity Company etc. et al.

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
Mallano, J.

DIVISION ONE (Continued)

B160792 Sweeney-Smith, Anne (Not for Publication)
 v.
 Smith, Kevin

The June 4, 2003 order granting Kevin's second motion to reduce child and spousal support is reversed to the extent it imputes to Kevin rental income from his Virginia house without deducting the expenses of maintaining the house as a rental property and imputes income from both the sale of the photographs and as a rate of return on the photographs. The trial court is directed to recalculate the amounts of income to impute to Kevin based on the rental value of the Virginia house, if any, and from the sale of, or as a rate of return on, the photographs, and to recalculate the amounts of child and spousal support Kevin must pay accordingly. In all other respects, the orders appealed from are affirmed. The parties are to bear their own costs on appeal.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
 Mallano, J.

B164826 Siegel (Not for Publication)
 v.
 Racine

The judgment as to defendants Earl Racine and David Racine is affirmed. The judgment as to defendants Weinstein, Boldt, Halfhide & Camel and Ronald Boldt is reversed. The parties are to bear their own costs on appeal.

Mallano, J.

We concur: Spencer, P.J.
 Suzukawa, J. (Assigned)

DIVISION ONE (Continued)

B173453 Wilson-Fellows (Not for Publication)

v.

Smart & Final, inc., et al.

The order is modified to provide the new trial is granted as to the issue of damages only. As so modified, the order is affirmed. Defendants are to recover costs on appeal.

Spencer, P.J.

We concur: Mallano, J.
 Suzukawa, J. (Assigned)

B172950 People (Not for Publication)

v.

Alisa Santos

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
 Suzukawa, J. (Assigned)

B171188 Wallace (Not for Publication)

v.

Fashion 21, Inc. etc., et al.

The judgment is affirmed.

Spencer, P.J.

We concur: Mallano, J.
 Suzukawa, J. (Assigned)

November 30, 2004 (Continued)

DIVISION ONE (Continued)

B165660 People
v.
Mario Silva

Filed order modifying opinion. Petition for rehearing is denied. (Change in judgment)

DIVISION TWO

B172379 People (Not for Publication)
v.
Twine

The judgment is affirmed.

Boren, P.J.

We concur: Nott, J.
Doi Todd, J.

[illegible]

The Court:

The judgment is affirmed.

Boren, P.J., Nott, J., Ashmann-Gerst, J.

DIVISION TWO (Continued)

B161836 Mandakunian, et al. (Not for Publication)
 v.
 Zoller, et al.

The judgment is affirmed.

Boren, P.J.

We concur: Nott, J.
 Ashmann-Gerst, J.

B167903 Cucco, et al. (Not for Publication)
 v.
 Spitzer

The order denying relief pursuant to Code of Civil Procedure section 473 is reversed. Parties to bear their own costs on appeal.

Boren, P.J.

We concur: Doi Todd, J.
 Ashmann-Gerst, J.

B169944 Warner (Not for Publication)
 v.
 Warner

The judgment of November 20, 2003, is affirmed. The appeal from the sanctions order of July 18, 2003, is dismissed. Respondent is entitled to costs on appeal.

Boren, P.J.

We concur: Nott, J.
 Ashmann-Gerst, J.

November 30, 2004 (Continued)

DIVISION TWO (Continued)

B171571 Wells (Not for Publication)
v.
Ciotti, et al.

The order of September 12, 2003, is vacated. Respondents may renew their motion for an offset before a different superior court judge. The request for sanctions is denied. The parties to bear their own costs on appeal.

Boren, P.J.

We concur: Doi Todd, J.
 Ashmann-Gerst, J.

B177118 Ana F. & Milton S. (Not for Publication)
v.
Superior Court, Los Angeles County
(Department of Children and Family Services, r.p.i.)

The petitions for writ of mandate are denied and the orders to show cause are discharged.

Boren, P.J.

We concur: Nott, J.
 Doi Todd, J.

B166899 Bufano, et al.
v.
State Farm Insurance Companies

Filed order denying petition for rehearing.

B167909 Coplan
v.
Coplan

Filed order denying petition for rehearing.

DIVISION THREE

B169640 People (Not for Publication)
B176859 v.
Funtila

The judgment is affirmed. The petition for writ of habeas corpus is denied.

Aldrich, J.

We concur: Klein, P.J.
Croskey, J.

DIVISION FOUR

B174152 Dream Theater, Inc., et al. (Certified for Publication)
v.
Dream Theater et al.

The order staying arbitration is reversed and remanded with instructions to vacate the order finding that AAA has no jurisdiction over the arbitration demand and to enter a new order staying this action pending the arbitrator's determination of the scope of this or her jurisdiction. Buyers are awarded costs on appeal.

Grimes, J. (Assigned)

We concur: Epstein, P.J.
Curry, J.

DIVISION FIVE

B166277 Moses Musharbash (Not for Publication)
 v.
 City of Pomona

The judgment is reversed. Each party to bear their own costs.

Grignon, Acting P.J.

We concur: Armstrong, J.
 Mosk, J.

B177775 People (Certified for Publication)
 v.
 Daniel Ray Thomas

The appeal is dismissed.

Turner, P.J.

We concur: Grignon, J.
 Armstrong, J.

B175772 Los Angeles County, D.C.S. (Not for Publication)
 v.
 Amos A. Sr.,
 In re Amos A., Jr.

The order terminating parental rights is affirmed.

Turner, P.J.

We concur: Grignon, J.
 Mosk, J.

November 30, 2004 (Continued)

DIVISION FIVE (Continued)

B168030 Uniwill L.P. (Certified for Publication)
v.
City of Los Angeles et al.

The judgment is reversed. Uniwill is to recover its costs on appeal.

Armstrong, J.

We concur: Turner, P.J.
 Grignon, J.

DIVISION SIX

B173125 People
v.
Lopez

Filed order dismissing appeal for lack of jurisdiction (on court's own motion). Appeal (notice of appeal filed 2-6-04) dismissed.

B174747 Select Personnel Services, et al. (Not for Publication)
v.
Worker's Compensation Appeals Board (Gonzalo Gonzalez)

We annul the order and remand so that the WCAB may clarify its order, or, if it so chooses, take additional medical evidence.

Gilbert, P.J.

We concur: Yegan, J.
Perren, J.

November 30, 2004 (Continued)

DIVISION SEVEN

B166053 Spelling
 v.
 Bilow

Filed order denying petition for rehearing.

DIVISION EIGHT

Court convened at 9:05 a.m.

Present: Cooper, P.J., Rubin, J., Boland, J., Flier, J. and Connie Hon, Deputy Clerk.

Each of the following:

B168295 People v. Thomas
B171609 Quinn Emanuel etc. v. University Mechanic
B172960 People v. Bridges
B170291 People v. Murguia
B173933 People v. Woolfolk
B170275 People v. Cage
B171866 People v. Diaz
B173346 People v. Thurston

Argument waived, cause submitted.

Each of the following:

B171921 Green v. W.C.A.B. (City Of Compton)
B177217 State Compensation Insurance Fund v. W.C.A.B. (Singleton)

Oral argument continued to December 17, 2004, at 1:00 p.m.

B168361 Vielmette
 v.
 Vielmette

The matter continued to January 27, 2005, at 9:00 a.m.

DIVISION EIGHT (Continued)

B168144 Yeboah
 v.
 Progeny Ventures, Inc.

The matter is continued to January 28, 2005, at 1:00 p.m.

B164687 Kozak et al.
 v.
 Packing Crate Classic, Inc.

Merits:
Argued by Richard Knickerbocker for appellant and by Paul Beechen for respondent. Submission deferred.

B170448 City Of Los Angeles
 v.
 Estate Of Norma Vides

Merits:
Argued by Blithe S. Bock, Deputy City Attorney for appellant and by Christopher Moreno for respondents. Cause submitted.

B174336 Los Angeles County, D.C.S.
 v.
 Samuella F. and Owen F.

Merits:
Argued by Aida Aslanian for appellant Samuella F. and by Jacklyn Louie, Deputy County Counsel for respondent. Karen B. Stalter appears for appellant Owen F. but does not argue. Cause submitted.

Justice Boland leaves the bench.

DIVISION EIGHT (Continued)

B165085 Hammonds
 v.
 Hernandez

Merits:

Argued by Ken Mifflin for appellant and by Steven A. Berliner for respondent. Cause submitted.

B169510 Shapiro
 v.
 Little Company Of Mary et al.;
 Kuwata,

Merits:

Argued by Alexander Kirkpatrick for appellant and by Beth McGowen and John Liset for respondents. Cause submitted.

B169141 Muller et al.
 v.
 Daniel Freeman Hospital, etc., et al.

Merits:

Argued by Albert Peacock for appellants, by Barbara W. Ravitz for respondents (Davis and Shanthram), by Celene M.E. Boggs for respondent (Fresno), by Susan Schmid for respondent (Bogosian) and by David Ozeran for respondent (Daniel Freeman Hospital). Cause argued, submission deferred.

Court recessed at 12:43 p.m.

Court reconvened at 1:34 P.M.

Present: Cooper, P.J., Rubin, J., Boland, J., Flier, J. and Emma Jean Amos and Connie Hon, Deputy Clerk.

DIVISION EIGHT (Continued)

B171724 Provencio et al.
 v.
 WMA Securities, Inc.

Merits:
Argued by Michael A. Firestein for appellant and by Jeffrey Kopczynski for respondents. Cause submitted.

B169859 Abbott
 v.
 Cunningham

Merits:
Argued by Keith A. Bregman for appellant and by Robert E. Lundgren for respondent. Cause submitted.

B170796 Cho et al.
 v.
 H & Auto Sales et al.

Merits:
Argued by Elisa R. Nadeau for appellants and by Scott A. Meehan for respondents. Cause submitted.

B171654 Kotler
 v.
 Pacificare Of California et al.

Merits:
Argued by Jeffrey Isaac Ehrlich for appellant and by Peter O. Israel for respondents. Cause submitted

DIVISION EIGHT (Continued)

B171401 Nelson
 v.
 Chubb Group Of Insurance Companies et al.

Merits:
Argued by Raymond L. Riley for appellant and by Marta Arriandiaga for respondents. Cause submitted.

B168097 People
 v.
 Golt,

Merits:
Argued by Michael L. Guisti for appellant and by Catherine Kohm, Deputy Attorney General for respondent. Cause submitted.

Presiding Justice Cooper leaves the bench.

B170826 Winters
 v.
 Eisenstein et al.,
 Harrison et al.

Merits:
Argued by Brent Winter appellant in propria persona and by Omar J. Yassin and Steven C. Rice for respondents. Cause submitted.

Court recessed at 3:49 p.m.

Court reconvened at 4:00 p.m.

Present: Cooper, P.J., Rubin, J., Flier, J. and Connie Hon, Deputy Clerk.

November 30, 2004 (Continued)

DIVISION EIGHT (Continued)

B174085 TIG Insurance Company
v.
TBWA Worldwide, Inc., etc., et al.

Merits:
Argued by Jennifer Cohn for appellant and by Douglas Emhoff, Michael G. Bruton and Jeffrey B. Charkow for respondents. Cause submitted.

Court adjourned at 4:56 p.m.

B158304 People (Not for Publication)
v.
Leos

The judgment is reversed. The petition for writ of habeas corpus is dismissed as moot.

Cooper, P.J.

We concur: Rubin, J.
Flier, J.

B169289 In Re Robert Leos (Not for Publication)
on
Habeas Corpus

The judgment is reversed. The petition for writ of habeas corpus is dismissed as moot.

Cooper, P.J.

We concur: Rubin, J.
Flier, J.

DIVISION EIGHT (Continued)

B162217 People v.
Moore

(Not for Publication)

The imposition of the parole revocation fine shall be stricken, with the abstract of judgment amended accordingly. In all other respects, the judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.
Flier, J.

B169020 Los Angeles County, D.C.S. (Not for Publication)
v.
Jorge L.,
In re Celeste H., et al. Persons Coming Under the Juven

The jurisdictional provisions of the order appealed from, including the finding that the allegations of the petition are true and the declaration that Jacob and Cedilia are dependents of the court, are affirmed. the dispositional provisions of the order are reversed. On remand, the juvenile court is directed to hold a new dispositional hearing, consider the factors required by section 361 and make appropriate findings.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.